

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RAFIC SAADEH,

Plaintiff,

-v-

MICHAEL KAGAN, et al.,

Defendants.

20 Civ. 1945 (PAE) (SN)

ORDER

PAUL A. ENGELMAYER, District Judge:

Currently pending is defendant Michael Kagan’s (“Kagan”) motion to dismiss the claims filed against him in plaintiff’s Second Amended Complaint. Dkt. 87. Before the Court is the October 20, 2021 Report & Recommendation of the Hon. Sarah Netburn, United States Magistrate Judge, recommending that the Court grant in part and deny in part Kagan’s motion. Dkt. 124 (“Report”). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts the Report’s recommendation.

**DISCUSSION**


In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at \*2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at \*4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Netburn's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that the "parties shall have fourteen days" to object and "failure to file these timely objections will result in a waiver of those objections for purposes of appeal," Report at 20, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cnty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Hum. Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

### CONCLUSION

For the foregoing reasons, the Court grants in part and denies in part Kagan's motion to dismiss. Specifically, plaintiff's ninth cause of action against Kagan is dismissed. Plaintiff's remaining claims against Kagan survive. The Clerk of Court is respectfully directed to close the motion pending at Docket 87 and mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.

  
\_\_\_\_\_  
PAUL A. ENGELMAYER  
United States District Judge

Dated: December 8, 2021  
New York, New York